

STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES
Before the Director of Insurance and Financial Services

In the matter of:

██████████

Petitioner,

v

File No. 140709-001

Guardian Life Insurance Company of America,

Respondent.

Issued and entered
this 20th day of May 2014
by Joseph A. Garcia
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On April 16, 2014, ██████████ authorized representative of ██████████ (Petitioner), filed a request with the Director of Insurance and Financial Services for an external review under the Patient's Right to Independent Review Act (PRIIRA), MCL 550.1901 *et seq.*

The Petitioner has dental coverage through a group plan that is underwritten by Guardian Life Insurance Company of America (Guardian). The Director notified Guardian of the external review request and asked for the information it used to make its final adverse determination. Guardian furnished the information on April 18, 2014. After a preliminary review of the material submitted, the Director accepted the request on April 23, 2014.

To address the medical issues in the case, the Director assigned the matter to an independent review organization (IRO) which provided its analysis and recommendation to the Director on January 6, 2014.

II. FACTUAL BACKGROUND

The Petitioner's dental benefits are described in a certificate of group coverage (the certificate) issued by Guardian.

On November 26 and December 11, 2013, the Petitioner underwent periodontal scaling and root planing (dental code D4341) in all four quadrants of his mouth. Guardian denied

coverage for these services, saying “there appears to be no loss of bone level requiring scaling and root planing.”

The Petitioner appealed the denial through Guardian’s internal appeals process. At the conclusion of that process, Guardian affirmed its original benefit decision in a final adverse determination dated March 11, 2014. The Petitioner now seeks a review of that adverse determination from the Director.

III. ISSUE

Did Guardian correctly deny coverage for the Petitioner’s periodontal scaling and root planing services?

IV. ANALYSIS

Petitioner’s Argument

In an undated appeal letter to Guardian, the Petitioner’s dentist wrote:

[The Petitioner], a patient of our practice, was seen initially on November 14, 2013 for preventive care by our staff. During his examination, our hygienist noted poor oral hygiene, heavy inflammation, generalized heavy bleeding on probing, generalized 5mm to 6mm pocket depths during perio charting, and bulbous papilla. Also, it was noted for mild bone loss. As a result, we diagnosed the patient with needing scaling and root planing for the next stage of treatment to stop and maintain the patient’s current periodontal disease.

Respondent’s Argument

Guardian’s final adverse determination said:

On 02/20/14 your grievance performed on 11/26/13 through 12/11/13 was received.

Coverage for these services were denied.

For the following teeth and/or quadrants: UR, LR, UL, LL

- The bone level and gingival attachment appear to be within normal limits.

In a letter dated April 18, 2014, submitted for the external review, Guardian further explained its position:

The dental plan provides that all covered dental services must be usual and necessary treatment for a dental condition, with proof of loss substantiated

through reviews of diagnostic x-rays and other supporting materials. Reviews are performed by licensed dentists acting in a consultant capacity. Pretreatment review is recommended for proposed treatment exceeding \$300 to ensure that all parties are aware of the projected available plan benefit and associated patient liability prior to work being performed; we did not receive a predetermination request prior to [the Petitioner's] claim for completed treatment.

Two separate claim reviews have been performed on the periodontal root planning/scaling procedures. Based on review of the clinical information provided, in both reviews the consultants advised that there appears to be no loss of bone level requiring scaling and root planing. According to the terms of the plan Guardian processed denials for the root planning/scaling procedures on 2/17/2014 and 3/11/2014.

Director's Review

Guardian covers medically necessary scaling and root planning as periodontal services under "Group II - Basic Dental Services" described on pp. 53 - 54 of its certificate:

Periodontal Services

Allowance includes the treatment plan, local anesthetic and post-treatment care. Requires documentation of periodontal disease confirmed by both radiographs and pocket depth probings of each tooth involved.

*. * *

Scaling and root planing, per quadrant – limited to once per quadrant in any 24 consecutive month period. Covered when there is radiographic and pocket charting evidence of bone loss.

The certificate also includes this exclusion (p. 50):

Any procedure or treatment method which does not meet professionally recognized standard of dental practice....

The question of whether the periodontal scaling and root planing was dentally (medically) necessary was presented to an IRO for analysis as required by section 11(6) of the PRIRA, MCL 550.1911(6).

The IRO reviewer is a licensed dentist in active practice. The IRO report included the following analysis and recommendation:

Reviewer's Decision and Principal Reasons for the Decision:

It is the determination of this reviewer that the root planning/scaling procedures performed on November 26, 2013 and December 11, 2013 were not medically necessary for the treatment of the enrollee's condition.

Clinical Rationale for the Decision:

The enrollee presented to the provider's office with periodontal pocketing in the 3 to 6 mm range. The provided clinical statements indicate that he had poor oral hygiene, heavy inflammation, bleeding on probing, and bulbous papilla. The letter of necessity from the office indicated mild bone loss; however this is not supported by the supplied x-rays. The supplied x-rays do not show any signs of crestal bone degradation or attachment loss. In order to require root planing, the cementum of the root must be exposed to the oral environment and require debridement. The periodontal charting indicates inflammation but the x-rays do not support there being attachment loss or exposed root surfaces. As there was no attachment loss, the standard of care would be for the enrollee to have had debridement and/or dental prophylaxis to bring the gums back to a state of health. Root planing would not be an appropriate description of the service as there was no root surface to clean.

The American Dental Association (ADA) CDT codes clearly states that for code D4341 "Root planing is the definitive procedure designed for the removal of cementum and dentin that is rough, and/or permeated by calculus or contaminated with toxins or microorganisms." In this instance there is no accessible cementum and dentin to be instrumented as there was no attachment loss. Carranza's periodontology also states that root planing is a procedure to remove cementum or surface dentin that is rough, impregnated with calculus or contaminated with toxins or microorganisms. Again, there is no exposed cementum to allow for root planing procedures.

In conclusion, the dental service in dispute, four quadrants of scaling and root planing, would not be considered dentally/medically necessary as there has been no notable loss of attachment and no loss of alveolar bone. In this instance, although there are pocket depths in excess of 3 mm, there has been no crestal bone loss, or noted loss of attachment according to the supplied x-rays. As there is no root surface to clean, the procedure of scaling and root planing cannot be performed as defined. [Citations omitted]

The Director is not required to accept the IRO's recommendation. *Ross v Blue Care Network of Michigan*, 480 Mich 153 (2008). However, the recommendation is afforded deference by the Director. In a decision to uphold or reverse an adverse determination, the Director must cite "the principal reason or reasons why the [Director] did not follow the assigned independent review organization's recommendation." MCL 550.1911(16)(b). The IRO's

analysis is based on extensive experience, expertise, and professional judgment. Furthermore, it is not contrary to any provision of the Petitioner's certificate of coverage. MCL 550.1911(15). The Director can discern no reason why the IRO's recommendation should be rejected in the present case.

The Director accepts the IRO recommendation and finds that the periodontal scaling and root planing were not medically necessary and; therefore, are not a covered benefit under the terms of the certificate.


V. ORDER

The Director upholds Guardian's March 11, 2014 final adverse determination. Guardian is not required to cover the periodontal scaling and root planing services the Petitioner received on November 26 and December 11, 2013.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this order may seek judicial review no later than 60 days from the date of this order in the circuit court for the Michigan county where the covered person resides or in the circuit court of Ingham County. A copy of the petition for judicial review should be sent to the Director of Insurance and Financial Services, Office of General Counsel, Post Office Box 30220, Lansing, MI 48909-7720.

Annette E. Flood
Director

For the Director:



Joseph A. Garcia
Special Deputy Director